IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.671 OF 2005

Mr.A.T.Patil .. .. Appellant

versus

Dy.Commissioner of Salt & Anr. .. Respondents

Mr.P.B.Naiknaware for appellant

Mr.S.R.Rajguru for respondent Nos.1 and 2.

CORAM : P.V.KAKADE, J.

DATE : 10TH AUGUST, 2005.

P.C.:

1. Rule. Rule is made returnable forthwith by consent.

2. This appeal is preferred by the appellant for the limited purpose of expunging the remarks made by the trial court while delivering the judgment in Regular Civil Suit No.47 of 1990 while dismissing the suit by order dated 30.12.1998. The appeal was carried to the

District Court. The learned Addl. District Judge, Raigad, Alibag while dismissing the appeal also passed the following order :

> "The remarks on page no.25 para 10 in the judgment of the trial court, marked in red line, are declared to be uncalled for and unwarranted and those will not come into the way of the plaintiff-appellant for his further progress or rendering the services in the Society."

. The appellant in person appears and submits that even though the lower appellate court passed order ins such manner the remarks were not "expunged" from the record and for that purpose the present appeal is filed.

3. Perusal of the record shows that the remarks were as follows :

> "The plaintiff is not reliable person who has suppressed the facts from the Court".

I have perused the judgments of both the courts below and it is abundantly clear that even though the

plaintiff was not in a position to prove his case in respect of recovery of the amount from the respondents, the remarks were in fact uncalled for especially when it is seen that the plaintiff appellant is an agriculturist as well as social worker and advocate residing at Vashi Tal. Panvel, Dist. Raigad. The record further shows that certain facts were not mentioned by the plaintiff, however, it is not clear that whether those were deliberately suppressed or not and therefore, in my considered view, the remark to the effect that the plaintiff is unreliable person is not called for. In fact the lower appellate court has considered this aspect, it only remained to be observed that the remarks were expunged for which purpose this appeal is being heard and disposed of.

4. Therefore, in view of the facts and circumstances, it is hereby directed that the remarks on page 25 para 10 in the judgment of the trial court as quoted above stands expunged from the record. Office to take necessary steps.

. In view of this position the rule is made absolute and the appeal stands allowed and disposed of

with no order as to costs.

. Certified copy expedited.